



# **A Guide to the NIMH Contracts Process**

## **PREFACE**

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This document contains general information about the National Institute of Mental Health (NIMH) acquisition program. It is not intended to replace the Federal Acquisition Regulation (FAR) or the terms of any particular contract. This document is a general reference guide and is not intended to be all inclusive or authoritative. In addition to addressing the initiation, award and administration of contracts sponsored by the NIMH, this documents also discusses distinctions between acquisition and assistance.

The Contract Management Branch (CMB), Office of Resource Management, NIMH contracts for research requirements and for requirements that directly support research. CMB normally does not contract for Information Technology, Construction or other non-research requirements. CMB also does not award Simplified Acquisitions (under \$100,000). Thus, those acquisitions are not discussed in this document. Questions or comments about the NIMH contracts program can be addressed to:

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## **GENERAL INFORMATION**

NIMH is the principal mental health research component of the Department of Health and Human Services (DHHS), National Institutes of Health (NIH). Its mission is to uncover knowledge that will lead to better mental health for all Americans. NIMH accomplishes this mission by conducting both basic and applied behavioral and biomedical research in its own facilities. In addition, NIMH supports or acquires scientific investigations and developmental efforts performed by other organizations through acquisition (contracts) and assistance (grants and cooperative agreements) relationships.

### **1. Distinctions Between Acquisition and Assistance Instruments**

A contract is a legal instrument used to reflect a relationship between the Federal Government and a contractor whenever the principal purpose of the transaction is to acquire goods or services for the direct

benefit or use of the Government, or when substantial Federal involvement during contract performance is anticipated. The Government states the work to be undertaken or the problem to be solved. Offerors compete for a common requirement open to all interested parties. Proposals are evaluated for technical and business sufficiency and generally involve negotiations. Award is made to the offeror that submits the proposal that offers the best value to the Government, considering all applicable technical and cost issues.

Grants and cooperative agreements are financial assistance mechanisms whereby money and/or direct assistance is provided to carry out approved activities. A grant is used whenever the awarding office anticipates no substantial programmatic involvement with the recipient during performance of the financially assisted activities. A cooperative agreement would be used when Federal programmatic involvement with the recipient is anticipated during performance.

## **2. NIMH Contract Management Branch (CMB)**

CMB awards and administers contracts ranging from complex biomedical R&D requirements, such as clinical trials, to requirements that support research, such as conference support activities. These contracts are designed to enable NIMH to carry out its mission.

## **3. The Role of the Contracting Officer**

Each contract is negotiated and administered by a NIMH Contracting Officer (CO). CO's are appointed by NIH and are empowered to execute contracts and contract modifications. A Contract Specialist is a professional member of the contract staff, who is involved in the day-to-day solicitation, negotiation, award, and administration of contracts, but does not have the authority to execute a contract or modification. CO's may also act through their authorized representatives, normally referred to as a Government Project Officer (GPO), primarily in the administration of a contract.

## **4. The Role of the Government Project Officer**

A GPO experienced in the scientific and technical disciplines addressed in a particular program or project is appointed for each contract requirement. The GPO is responsible for monitoring the technical aspects of the project and assisting the CO in the administration of financial and other business aspects of a contract. The GPO is NIMH's primary contact with the Contractor's Principal Investigator (PI).

## **5. Regulations Governing Contracting**

The Federal Acquisition Regulation (FAR) <http://www.arnet.gov/far/> and Health and Human Services Acquisition Regulations (HHSAR) <http://www.hhs.gov/ogam/oam/procurement/hhsar.html> guide NIH contracting. The FAR contains regulations and prescribed contracting policies and procedures that must be followed by all agencies of the Government in the solicitation, negotiation, award and administration of their contracts. The HHSAR was developed to implement and supplement the FAR, providing DHHS-wide policies, procedures and guidance that govern the acquisition process.

# **THE CONTRACT PROCESS**

## **1. Methods of Contracting**

The two basic methods of contracting utilized throughout the Government are sealed bidding and negotiation. Negotiation is a more suitable method to procure Research and Development (R&D) requirements, and is thus the method used to acquire most NIMH requirements. Negotiation provides the

contracting parties maximum flexibility to refine the contract Statement of Work (SOW), and anticipated costs of performance, prior to award.

## **2. Flexibility of NIMH Contracts**

A contract enables the CO and Contractor to agree to changes in the SOW, expansion or reduction of work requirements within the general scope of the contract, and other changes as work progresses, such as necessary funding adjustments.

## **3. Contract Performance Period**

The length of a contract will vary depending upon the requirement. NIMH research contracts are usually funded annually, but are often awarded for multiple years.

## **4. Competition for Contracts**

NIMH usually uses a Request for Proposal (RFP) to solicit contract proposals. RFP's are competed to the maximum practicable extent among qualified educational institutions, nonprofit organizations, large and/or small businesses.

## **5. Requests for Proposals**

RFPs issued by CMB contain all information necessary for offerors to prepare a proposal, and follow the uniform contract format established by the FAR. An RFP includes: (1) SOW; (2) a performance/delivery schedule; (3) available Government-furnished property, if any; (4) applicable contract clauses to be included in the contract as awarded; (5) proposal evaluation criteria; and (6) guidance to prospective offerors on how to prepare the technical and cost portions of their proposal.

RFPs always specify the required date for submission of proposals. NIMH is not authorized to consider late proposals or late modifications to proposals, unless the proposal receipt was delayed due to one of the regulatory exemptions stated in the FAR or the HHSAR.

SOW's are designed for offerors to clearly understand the requirement while having reasonable discretion to propose innovative solutions to the technical problems identified by the NIMH. Even though offerors may propose various technical approaches, evaluation criteria are designed to utilize a uniform standard to evaluate proposals.

## **6. Publicizing Contract Requirements**

FedBizOpps: <http://www.fedbizopps.gov> is utilized to announce Federal contract requirements. Research requirements are also announced in the *NIH Guide for Grants and Contracts* (Guide): <http://grants1.nih.gov/grants/guide/index.html> for R&D requirements. The Guide contains policy guidance and administrative information concerning NIH programs, along with announcements for contract and grant requirements.

In addition to announcing requirements in FedBizOpps and the Guide, CMB also posts requirements on the NIMH website at: <http://www.nimh.nih.gov/grants/indexcon.cfm>.

## **7. Evaluation, Negotiation and Award**

### **a. Technical Evaluation of Proposals and Establishing a Competitive Range**

The relative importance of the technical aspects of the proposal versus the cost or price, as well as how past performance is to be treated, is specified in each RFP. An ad hoc Peer Review Panel is established to evaluate proposals received under each research requirement. Each panel is comprised of non-Federal peer reviewers, who review proposals in a manner similar to the review of grant applications by NIH. The panel uses the RFP evaluation criteria to evaluate how well each offeror addressed the goals of the RFP. A similar review process is used for requirements that are in support of research. The GPO and CO evaluate an offeror's past performance on similar projects, and proposed costs. The CO will establish a competitive range comprised of those technically acceptable offerors that have a reasonable chance of being selected for award.

#### **b. Cost and Price Analysis of Proposals**

A cost or price analysis is performed on every proposal in the competitive range.

A cost analysis involves the review of the individual cost elements and proposed profit, if any, and any other information available to the CO or other Government official(s) who may analyze a proposal.

A price analysis is performed on fixed priced proposals, or the fixed priced components of a cost proposal. A price analysis is performed to examine and evaluate the reasonableness of the proposed prices, rather than separate cost elements or profit.

#### **c. Negotiations**

Normally, the CO conducts negotiations in writing, or in person, with every offeror in the competitive range. Negotiations are designed to address ambiguities or uncertainties in a proposal, concerns about proposed costs, and other administrative issues. Offerors are requested to respond to questions, and ultimately, to submit a Final Proposal Revision (FPR). The FPR is the basis for the final contract award to the offeror deemed most advantageous to the Government.

#### **d. Award**

Following negotiations, the GPO will recommend the offeror(s) to receive the contract(s). CMB prepares the contract(s) and send it/them to the successful offeror(s) for signature. The contract(s) is effective when it is signed by the CO.

### **8. Socioeconomic and Compliance Programs**

Contracts are required to comply with the socioeconomic programs addressed in chapters 19-26 of the FAR. The most notable of these for NIMH is the preferences for small and disadvantaged businesses. Others include various labor laws, privacy provisions, etc. Information about the small/disadvantaged business program is available at: <http://sbo.od.nih.gov/>

Contracts are also required to adhere to compliance programs in the same manner as grants. These include Federal programs, such as Equal Opportunity, age discrimination, etc., and research compliance issues, such as Human Subjects, Women and Minorities in Research, etc.